

Case Law Today - October 2011

DVD Video

Multimedia I.D. Number: **NA**

CPT Hours: **NA**

DVD Shipping Date: 10/24/11

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California Commission on Peace Officer Standards and Training

Custody: The Supreme Court Adds "Age" to the Equation

with Daniel McNERNEY, Superior Court Judge, Orange County, CA
When it comes to questioning minors, the Supreme Court now holds that the minor's age is a factor in determining custody. *Case cited: J.D.B. v. North Carolina (2011) DAR 8827. (8:32)*

Detentions Based on Parking Violations Okay

with Jeff Rubin, Deputy District Attorney, Alameda County, CA
The fact that parking violations are only subject to civil penalties and administrative enforcement does not prevent police officers from physically detaining a suspect for parking violations, including parking in a fire lane. *Case/Statutes cited: People v. Bennett (2011) 197 Cal.App.4th 907; Veh. Code §§ 22500.1; 40200; and 40202. (6:26)*

Renumbering of Weapons Statutes

with Devallis Rutledge, Special Counsel, Los Angeles CO District Attorney's Office
The "Dangerous Weapons Control Act of 2010" renumbers 1000 sections of 10 codes, effective January 1, 2012. Most laws relating to firearms and other dangerous weapons are re-located in new Part 6 of the Penal Code under new section numbers. Officers must learn the new section numbers for arrest and booking purposes, but must keep old numbers handy when reading rap sheets and old reports. *Cases/Statutes cited: Assembly Bills (AB) 1080 and 1115. (6:20)*

Facebook Posting In Another's Name Can Be Identity Theft

with Jeff Rubin, Deputy District Attorney, Alameda County, CA
A person can be charged with violating the statute prohibiting identity theft based on the person obtaining a victim's email password, using that password to gain access to the victim's Facebook account, and then using access to that account to post obscene messages purportedly from the victim on the Facebook pages of the victim's friends. *Case/Statutes cited: In re Rolando S. (2011) 197 Cal.App.4th 936; Pen. Code § 530.5. (9:38)*

Miranda: Booking/Jail-Related Questions

with Daniel McNERNEY, Superior Court Judge, Orange County, CA
Non-investigative questioning or conversation with inmates regarding their custody status does not constitute "custodial interrogation" for purposes of Miranda. (6:35)

Secret Recording of Inmates By Jailhouse Informants

with Jeff Rubin, Deputy District Attorney, Alameda County, CA
Even where a jailhouse informant is acting as a law enforcement agent, it is not necessary for the informant to provide Miranda warnings before speaking with a fellow inmate about an uncharged crime when the inmate is unaware the informant is acting as a law enforcement agent. Also, it is not a violation of Massiah rule for law enforcement to use a jailhouse informant to elicit and record statements of a fellow inmate about crimes with which the inmate is not yet charged. *Cases cited: People v. Gonzales (2011) 52 Cal.4th 254; Massiah v. United States (1964) 377 U.S. 201. (8:24)*